S.B.CIVIL WRIT PETITION NO. 4712/1994

Purshotamlal Vs. The Director, HZL, Udaipur & Ors.

DATE OF ORDER :: 1st May, 2007

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. Mahesh Bora, for the petitioner.
None present for the respondents.

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By this petition for writ a challenge is given to the order dated 27.12.1990 passed by the General Manager, Hindustan Zink Ltd., Udaipur imposing a penalty of withholding of two annual grade increments of Rs. 150/- with cumulative effect as a consequent to disciplinary proceedings initiated against the petitioner in pursuant to a charge-sheet dated 20.3.1990.

The contention of counsel for the petitioner is that before imposing penalty i.e. of stoppage of two annual grade increments with cumulative effect, a notice to show cause dated 8/10.11.1990 was given to him with a tentative punishment of dismissal, however, no copy of the report of inquiry officer was supplied to him and that caused a prejudice to him to the extent that he failed to defend himself with regard to adverse findings given by the inquiry officer. The fact with regard to non-supply of the inquiry report to the petitioner is not denied by the respondents in reply to the writ petition. It is well settled that

the penalty of stoppage of annual grade increments with cumulative effect amounts to reduction in rank and no such penalty could be imposed without giving an opportunity to the delinquent employee to meet the adverse findings given by the enquiry officer. In the instant matter the penalty of withholding of annual grade increments with cumulative effect which amounts to reduction in rank was imposed upon the petitioner, therefore, it was obligatory upon the disciplinary authority to supply a copy of the inquiry report to the petitioner, and only after seeking his comments thereupon an order imposing penalty could have been passed.

In view of it, this petition for writ deserves acceptance. Accordingly, the order impugned is quashed, the respondent may proceed against the petitioner with disciplinary action afresh by supplying a copy of the inquiry report to him. Till the respondents complete the disciplinary action by supplying a copy of inquiry report to the petitioner and further passing an order afresh they are not required to release the increments already stopped as the fate of the same shall be dependent to that. The respondents shall complete the entire process of disciplinary action as ordered above within a period of six months from the date the petitioner serves a copy of this order upon them.

(GOVIND MATHUR),J.

jgoyal